

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1070864/U # 14-27

INVESTIGATION

NUMBER: LOG #1070864 / U#14-27

INVOLVED

OFFICER #1: “Officer A” (Chicago Police Officer); Male/White; 45 years old; On-Duty; In Uniform; Year of Appointment – 2004

INVOLVED

OFFICER #1 -

INJURIES: Scraped arms from original scene; no medical attention.

INVOLVED

OFFICER #2: “Officer B” (Chicago Police Officer); Male/White; 43 years old; On-Duty; In Uniform; Year of Appointment – 2005

INVOLVED

OFFICER #2

INJURIES: None reported.

WITNESS

OFFICER #1: “Officer C” (Chicago Police Officer); Male/White; 35 years old; On-Duty; In Uniform; Year of Appointment – 2003

WITNESS

OFFICER #1 –

INJURIES: None reported.

WITNESS

OFFICER #2: “Officer D” (Chicago Police Officer); Male/White; 40 years old; On-Duty; In Uniform; Year of Appointment – 2003

WITNESS

OFFICER #2 –

INJURIES: None reported.

WITNESS

OFFICER #3: “Officer E” (Chicago Police Sergeant); Male/White; 48 years old; On-Duty; In Uniform; Year of Appointment – 2004

WITNESS

OFFICER #3 –

INJURIES: None reported.

SUBJECT:

“Subject 1”; Male/Hispanic; 24 years old

SUBJECT’S

INJURIES: Two gunshot wounds (through and through) upper right arm, one gunshot wound (through and through) left arm, one gunshot wound (entry) upper right chest, one gunshot wound (exit) right abdomen.

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Transported by Chicago Fire Department Ambulance #7 from scene to Advocate Illinois Masonic Medical Center.

INITIAL

INCIDENT: Vehicle blocking alley.

**DATE/TIME/
LOCATION OF
INCIDENT:**

08 August 2014/1714 Hours/XXXX North Harding Avenue
(Alley)/

08 August 2014/1727 Hours/2841 North Pulaski Road (Alley).

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SUMMARY OF INCIDENT:

Officer A and Officer D were working together in a marked Tahoe. Officer D was driving and Officer A was in the front passenger seat. They were assigned to handle a disturbance call at XXXX North Harding Avenue (3932W). Upon arrival, Officer A and Officer D spoke with Citizen A who told them that the subject, Subject 1, was sitting in a blue SUV blocking the alley. As a result, Citizen A could not drive his vehicle into his garage. As Officers A and D approached Subject 1's vehicle, they observed him smoking a white substance in a pipe. Subject 1 drove his vehicle forward, striking the marked Tahoe, and then backed into Citizen A's vehicle. He did this twice, and was able to negotiate his way around the police vehicle. Officers A and D returned to their marked Tahoe and followed Subject 1 to an alley behind 2841 North Pulaski Road (4000W) where assist units responded. Subject 1 attempted to flee again, driving directly at Officer A; another police vehicle was directly behind Officer A and he could not get out of Subject 1's path. Officer A fired four rounds from his weapon, striking him through the windshield. Subject 1 immediately got out of his vehicle and fought with officers. Another officer (now known as Officer B) tased Subject 1 to overcome his resistance and assist in taking him into custody. Medical attention was summoned for Subject 1 and notifications were made.

INVESTIGATION:

In his preliminary report, IPRA Investigator A related that on 08 August 2014, at approximately 1830 hours, CPD Deputy Chief, the On Call Incident Commander, conducted a walk-through of the incident based on preliminary information. CPD Deputy Chief related basically the same account of the incident as that in the Summary of Incident section of this report. Evidence markers had been placed near three expended cartridge casings in front of Subject 1's vehicle, and one expended cartridge casing beside Subject 1's vehicle between two parked vehicles. Evidence markers had also been placed by a Taser wire, United States Currency, and a bloody 'T' shirt. A marked Chevrolet Tahoe (Vehicle #PD6521, license M172885) was facing south in the alley behind 2847 North Pulaski Road. That vehicle had been operated by Officer B (who tased Subject 1) and Officer C who were responding as an assist unit, Beat 2524. Their vehicle was equipped with a Portable Data Terminal (PDT) and an in-car camera. A second marked Chevrolet Tahoe (Vehicle #PD6521, license M176015) was in a parking apron behind the apartment building at 2847 South Pulaski Road, facing south. That vehicle had been operated by Officer A and Officer D, Beat 2523, the unit that initially responded to the call. That vehicle was also equipped with a PDT and an in-car camera. A marked Ford Explorer (Vehicle #PD8997, license MP10-635) was facing west in a vacant lot at Pulaski Road and George Street (2900N). That vehicle had been operated by Officer E, Beat 2520, another assist unit; it was equipped with a PDT and in-car camera as well. No exterior surveillance cameras were identified at that time. Per IPRA Investigator A, IPRA Investigator B of this office responded to the Illinois Masonic Medical Center, but was not able to interview Subject 1.

CPD Deputy Chief stated that when Subject 1 fought with officers after getting out of his vehicle, an assist officer, Officer B (not Officer A, who discharged his firearm), deployed his Taser, striking him. Officer B then contact stunned Subject 1 as he continued to resist, and the officers were able to take him into custody.

In a To/From/Subject report IPRA Investigator B related that on 08 August 2014, at approximately 1940 hours, he responded to the Illinois Masonic Medical Center Emergency Department. IPRA Investigator B spoke with Doctor A, who at that time indicated that Subject 1 had sustained four gunshot wounds to his right arm, two gunshot wounds to his left arm, and three gunshot wounds to his abdomen. Subject 1 was undergoing examination/treatment and could not be interviewed.

A canvass conducted by IPRA personnel resulted in the identification no eyewitnesses to the police involved shooting. Citizen B of XXXX North Harding Avenue stated that he heard five gunshots, but did not witness the shooting. Citizen C of XXXX North Harding Avenue stated that she heard five gunshots, but did not witness the shooting. Citizen D of XXXX North Harding Avenue stated that she heard five gunshots, but did not witness the shooting. Citizen E of XXXX North Pulaski Road responded to a business card left during the canvass. She stated that she heard an unspecified number of gunshots in succession. She exited the rear of her building and saw Subject 1 on the ground; the

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police had control of the scene and of Subject 1. An ambulance arrived and transported Subject 1 from the scene.

The Chicago Fire Department (CFD) Emergency Medical Services (EMS) Incidents Record indicates that on 08 August 2014, CFD Ambulance #07 responded to 2845 North Pulaski Road, arriving at 1735 hours. The ambulance crew consisted of Ambulance Commander/Paramedic In Charge #1 and Firefighter/Paramedic #1. Ambulance Commander/Paramedic In Charge #1 and Firefighter/Paramedic #1 found Subject 1 lying on the ground handcuffed behind a vehicle. Subject 1 was combative, making it difficult for the ambulance crew to assess his condition and render treatment. They noted the following: two gunshot wounds to the right arm, one gunshot to the left arm, and two gunshot wounds to the abdomen. The ambulance crew's assessment of Subject 1 also revealed Taser prongs to his left lower quadrant; they reported Subject 1's condition to the Illinois Masonic Medical Center and transported him to that facility without incident or change in his condition and transferred him to the care of the hospital Trauma Team.

The medical records from the Illinois Masonic Medical Center indicate that Subject 1 was brought into the Emergency Department with gunshot wounds to his stomach and his arm, and evidence of Taser deployment. He was treated and admitted.

The Crime Scene Processing Reports, Evidence Technician photographs, and Crime Scene Video depict the scene and surrounding area of the Officer Involved Shooting, the location of recovered evidence, the subject (Subject 1) and involved vehicles. Only one fired bullet was recovered, from ground west of Subject 1's vehicle. They also depict evidence recovered at the Illinois Masonic Medical Center.

The related Police Department reports; the General Offense Case Report, Detective Supplementary Reports, Major Incident Notification Detail (MIN) report, Tactical Response Reports (TRRs), and Officer's Battery Reports (OBRs) contain information that is consistent with the Summary of Incident. Detectives interviewed Citizen A, who called the police to report Subject 1 blocking the alley, but who did not witness the shooting. They did not locate any witnesses to the shooting. Under Miranda Rights, detectives interviewed Subject 1 (who had an alias of [Alias Name]). Subject 1 indicated that he got scared and did not want to stop for the police because he had smoked crack cocaine shortly before the stop and that he had \$1800.00USC on his person and was afraid the police would take it from him. When confronted with his alias, Subject 1 stated that he did not have one and demanded an attorney, ending the interview. The detectives contacted the Public Safety Information Technology Unit (PSIT) and requested a technician to retrieve video from the in-car cameras in vehicles for Beat 2520 (Officer E), 2523 (Officers A and D), and 2524 (Officers B and C). Officer F of that unit responded to the scene and determined that none of the three cameras were functioning.¹ They also determined that none of several private surveillance cameras captured the shooting.

¹ The Reporting Investigator made attempts to obtain a copy of documentation of request(s) for repair of the in-car cameras, but was not successful (reference Attachment #41 & #78, entry dated 04 September 2014); there was no response to an e-mail and telephone message to PSIT.

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Attempts by IPRA to interview the subject, Subject 1, were unsuccessful. After an appointment was scheduled to interview him at Cook County Jail, the Cook County Public Defender's Office informed this office that Subject 1 was being represented by a private attorney. When the attorney, Attorney A, was contacted, he indicated that he did not want Subject 1 to be interviewed.

The Office of Emergency Management and Communications (OEMC) disk and printout contain Citizen A's call to 911 and related OEMC/CPD transmissions.

A report from the Illinois State Police, Division of Forensic Services dated 17 September 2014 (Inventory #13241288) indicates that four fired cartridge casings were determined to have been fired from Officer A's weapon², that was deemed operational and was tested fired using a magazine submitted with the weapon. Ten unfired Winchester 9mm Luger rounds also submitted with the weapon were examined for caliber and type. The same report indicates that analysis on a recovered fired bullet inventoried under #1132412282 had been deferred and that any future analysis would have to be initiated by a new request.

A report from the Illinois State Police, Division of Forensic Services, dated 20 August 2014, reported that 0.5 grams of plant material recovered from Subject 1's personal property at the Illinois Masonic Medical Center and inventoried under #13241286 was determined to be cannabis.

During a statement with the IPRA on 11 August 2014, Officer A (identified from this point as Officer A) related that that he was the passenger in a marked vehicle on patrol in the 025th District. His partner was Officer D. Officer A and Officer D received a radio assignment of a disturbance in the area of XXXX North Harding Avenue (3932W) in the alley. OEMC informed them that a citizen (now known as Citizen A) was reporting that a blue SUV was blocking Citizen A's access to his garage. Citizen A also indicated that the driver of the SUV was not responding to him and was smoking crack cocaine. Upon arrival at the scene, Officer D drove into the alley and Officer A observed a blue SUV stopped, facing the officers' vehicle. Citizen A was in his vehicle, behind the SUV; he was gesturing toward the officers and pointing at the stopped SUV. Officer D sounded the horn of the police vehicle and waved at the SUV through the open driver's window; there was no response.

Officers A and D got out of their vehicle and approached the SUV on foot. Officer A approached the driver's side of the SUV and a Hispanic male (now known to be the subject, Subject 1) sitting in the driver's seat looking straight ahead, not acknowledging the officers. All of the SUV's windows were closed;

Subject 1 was sweating profusely and his upper body was twitching. He did not respond to the officers' attempts to engage him verbally and by tapping on the SUV's windows. Using unnaturally stiff movements, Subject 1 looked at Officer A and then looked away.

² Identified in the ISPDFS report as a SigSauer [sic] model P223, and identified in Officer A's Tactical Response Report (TRR) and the Crime Scene Processing Report as a SIG SAUER Model P228.

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He pulled a narcotics pipe from his waistband and began smoking a white colored substance. Officers A and D ordered Subject 1 to stop and to open the vehicle door.

Eventually, Subject 1 put down the pipe and started the SUV. He drove forward, striking Officers A and D's vehicle and then reversed striking Citizen A's vehicle. Officers A and D struck the windows of Subject 1's vehicle, trying to get his attention and make him stop. Officer D radioed for authorization from a supervisor to attempt to remove Subject 1 from the vehicle. Subject 1 repeated that action, striking both vehicles more forcefully the second time. When he struck Citizen A's vehicle the second time, Officer A feared that Subject 1 would cause serious damage or injury before authorization was received so he used his collapsible baton to break the rear passenger window of Subject 1's vehicle. Subject 1 drove forward again, pushing Officer A aside with the side of his vehicle and managed to maneuver past Officers A and D's vehicle striking trash cans as he did. He drove to the dead-end of the alley and turned right into another alley.

Citizen A gave Officers A and D the 'thumbs up' gesture, indicating that he had not been injured. The officers returned to their vehicle and backed out of the alley, then followed Subject 1's vehicle. Subject 1 made several more turns, sometimes moving at a high rate of speed. He managed to drive through an opening that was too small for Officers A and D's vehicle. They lost sight of Subject 1's vehicle and thought he had managed to escape. They had the windows of their vehicle down, and heard commands of, "Stop", "Police", "Get out of the car". Officers A and D exited their vehicle and saw that on the other side of a row of parked vehicles, another police vehicle (Beat 2524, Officer B - identified from this point as Officer B - and Officer C) had blocked Subject 1's path. Subject 1 had attempted to drive back in the direction from which he had come. Officers A and D walked through the parked vehicles and Officer A passed through the parked vehicles near the front of Officers B and C's vehicle.

Officer A could see other officers with their weapons drawn and giving Subject 1 commands and also began to give commands. Subject 1 initially backed his vehicle toward the parked vehicles, but then changed directions and backed quickly in the direction of Officer B who managed to jump out of the way. When that occurred, Officer A drew his weapon. Subject 1 looked in Officer A's direction; Subject 1's vehicle lurched forward slightly and then accelerated toward Officer A. Officer A began to back away and found himself against Officers B and C's vehicle.

Officer B looked to his right and saw a small space between Beat 2524's vehicle and the parked vehicles. Subject 1 was headed directly at Officer A; when Subject 1's vehicle came to within eight to ten feet; Officer A fired four rounds in quick succession as he attempted to back around Beat 2524's vehicle. When Subject 1's vehicle was within two to three feet from Officer A, it veered to the left and struck parked vehicles. Subject 1 got out of his vehicle; Officer A saw other officers and heard Officer B announce, "Taser, Taser, Taser!"

Officer A approached Subject 1 who was face down on the ground with his hands underneath him at his waist. Subject 1 resisted the officers' attempt to handcuff him by

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kicking and thrashing about. Officer A and the other officers managed to get Subject 1 handcuffed and noticed blood on the front of Subject 1's upper body. Other officers requested medical attention for Subject 1 and made notifications. Officer A radioed OEMC to inform them he had discharged his firearm. According to Officer A, Subject 1 threw the narcotics pipe from his vehicle when he was attempting his escape from the original location. Officer A recovered the pipe after the shooting. Officer A stated that the in-car camera in his vehicle was not functioning and that a request to have it repaired had been submitted. Officer A stated that, to his knowledge, the in-car camera in his vehicle was not functioning at the time of the incident.

During a statement with the IPRA on 09 August 2014, Officer D related basically the same account of the incident as that of Officer A. Officer D indicated that as he ran between two parked cars, he saw Subject 1 reverse his vehicle and almost strike one of the officers from Beat 2524. Subject 1 then began moving forward, accelerating suddenly at Officer A who was standing in front of Beat 2524's vehicle. Officer D heard four gunshots and Subject 1's vehicle veered to the left and struck some parked cars. Subject 1 got out of his vehicle; when Officer D ran around the vehicle, Subject 1 was lying on the ground with his hands underneath his body at his waistband. He ignored repeated orders to show his hands and Officer B tased Subject 1; the officers had to physically take control of his arms to get him handcuffed. When the officers noticed that Subject 1 was bleeding heavily, medical attention was summoned. Officer D stated that he did not draw his weapon during the incident because he was not in immediate danger at any point, and that other officers were in his line of fire throughout.

During a statement with the IPRA on 09 August 2014, Officer B related that he and Officer C were working Beat 2524 and were writing parking citations when they heard a call to assist Beat 2523 on the radio. Officer A and Officer D were following a vehicle that would not stop. Officer C drove to where they thought they could intercept Subject 1's vehicle based on information Beat 2523 was broadcasting over the radio. As Officer B and Officer C looked for it, they came face to face with Subject 1's vehicle. Officer B got out of his vehicle and approached, after initially drawing his weapon, Officer B reholstered it because he did not feel an immediate threat. Subject 1 was attempting to extricate his vehicle from amongst Beat 2524's vehicle and parked vehicles, leaving Officer B behind Subject 1's vehicle. Officer B drew his Taser and was preparing to deploy it through the broken rear passenger side window. He then heard two loud reports and looked to see Officer A between Subject 1's vehicle and Beat 2524's vehicle, with his weapon drawn. Officer A then quickly fired two more rounds.

Subject 1's vehicle struck a parked car, and he got out. His shirt was bloody; Officer B trained his Taser on Subject 1 and ordered him to stop and put his hands behind his back. Subject 1 began to advance toward Officer B, who tried to grab him with one hand while he held his Taser in his other hand. Subject 1 pulled away and attempted to flee. Officer B deployed his Taser; Subject 1 screamed and fell to the ground. Officer A came to take Subject 1 into custody and Officer B kept a distance in case he needed to deploy his Taser on Subject 1 again. Subject 1 was lying face down with his hands underneath him and was not responding to Officers A and D who, were shouting at him to release his

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hands. Officer B then drive stunned Subject 1, after which he was handcuffed, but continued to resist by flailing about and trying to get up. Officer B drive stunned him again. Subject 1 finally stopped and just lie on the ground. Additional assist units and medical assistance arrived almost immediately. Officer B stated that to the best of his knowledge, the in-car camera in his vehicle was not functioning at the time of the incident.

During a statement with the IPRA on 09 August 2014, Officer C related basically the same account of the incident as that of Officer B. He indicated that when his vehicle and Subject 1's vehicle came to a stop facing each other, he exited, drawing his weapon as he did. Officer C pointed his weapon at Subject 1, announcing his office and telling him to stop his vehicle. Officer C was standing at the front of his vehicle, and Officer A was standing to Officer C's right. Subject 1 reversed his vehicle and then accelerated forward at a high rate of speed toward Officers A and C. Officer C was able to move out of the vehicle's path. As he did, he saw that Officer A was blocked by Officers B and C's vehicle and parked vehicles; Officer A could not move out of the way. Officer A fired two rounds at Subject 1's vehicle. Officer C started to run around the rear of his vehicle to the passenger side to assist Officer A. As Officer C started to run, he heard two more shots. As Officer C reached the rear of his vehicle he saw that Subject 1's vehicle had struck a parked car and stopped, and the door was now open. Officer C ran back around to the front of his vehicle and saw Subject 1 lying on the ground. A Taser had already been deployed upon him and other officers were able to pull his arms from under him and take him into custody. Subject 1's shirt was covered in blood, and Officer C radioed for an ambulance. Officer C stated that the in-car camera in his vehicle was not functioning to the best of his knowledge.

During a statement with the IPRA on 09 August 2014, Officer E related that he responded to a request for a supervisor. En route, he monitored radio traffic involving the efforts to stop Subject 1. As Officer E reached the scene, he saw Subject 1 driving his vehicle in the direction of Officer A. Officer A was standing between Subject 1's vehicle and Beat 2524's vehicle; Officer A fired four rounds at Subject 1. Officer E got out of his vehicle and approached Subject 1's vehicle where he saw Officer B deploy his Taser on Subject 1 and officers take him into custody. Officer E radioed for an ambulance and alerted additional responding units that the situation was under control. Officer E stated that he learned after the incident that the in-car camera in his vehicle had not been functioning at the time of the shooting.

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CONCLUSION AND FINDINGS:

This investigation found that the use of deadly force by Officer A was in compliance with the Chicago Police Department policy that was in effect at the time of the shooting and Illinois State Statutes. According to the appropriate Chicago Police Department's General Order, G03-02-03 - Deadly Force, II, A:

“a sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary:

1. to prevent death or great bodily harm to the sworn member or to another person, or:

2. to prevent an arrest from being defeated by resistance or escape and the sworn member reasonably believes that the person to be arrested:
 - a. has committed or has attempted to commit a forcible felony which involves the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm or;
 - b. is attempting to escape by use of a deadly weapon or;
 - c. otherwise indicates that he or she will endanger human life or inflict great bodily harm unless arrested without delay.”

Officer A's use of deadly force was justified by several criteria. He fired at Subject 1 after he accelerated his vehicle at Officer A who attempted to move out of its path, but found his way blocked. At the original location, Subject 1 grazed Officer A with his vehicle as he forced his way from the alley and attempted to escape. Officer A had observed Subject 1 behaving in a non-responsive and erratic manner, and saw him ingest what appeared to be illegal narcotics. Subject 1 then fled using a circuitous route, striking trash cans and parked vehicles with no apparent concern for other traffic or pedestrians.

Given the circumstances, it was reasonable for Officer A and the other officers to believe that Subject 1 was attempting to defeat his arrest by resistance or escape after committing a forcible felony which involved the infliction of physical force likely to cause death or great bodily harm; that he was attempting to escape using his vehicle as a deadly weapon, and that his actions indicated that he would further endanger human life or inflict great bodily harm unless he was arrested without delay.